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Certificate Of Mailing Under 37 CFR 1.8

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Kandi L. Lortie

Date: September 13, 2007

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: ~~10/669,347~~ **10699347**

Examiner: Geoffrey S. Evans

Filing Date: October 31, 2003

Confirmation No.: 2522

Title: Food Processing Apparatus And Method

Inventor: Xiaochun Li

Attorney Docket: 539.005

Art Unit: 1725

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Mail Stop – Petitions
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

Sir:

The Notice of Abandonment, mailed on August 17, 2007 indicates that the above-captioned patent application is abandoned due to applicant's alleged failure to timely reply to the Office Action of January 31, 2007. The Manual of Patent Examining Procedure (MPEP) allows an applicant to request reconsideration of a holding of abandonment when he or she disagrees on the basis that there is no abandonment in fact. MPEP § 711.03. In the present case, applicant (now Petitioner) timely filed a response to the outstanding Office Action bearing a Certificate of Mailing in full compliance with 37 CFR §1.8(a). Petitioner therefore requests that the holding of abandonment be withdrawn.

BACKGROUND

The Patent Office mailed an Office Action on January 31, 2007. Petitioner filed a Reply on May 31, 2007 with a request for a one-month extension of time (see page 11 of May 31, 2007 Reply) and corresponding fee for a small entity, as well as an authorization to charge the deposit account of Applicant's representative for three (3) additional dependent claims. The response bears a Certificate of Mailing signed by a person with reasonable knowledge of the timely mailing of the response. A copy of that response bearing the Certificate of Mailing is attached. Also, a copy of the postcard filed with the May 31, 2007, Reply received by Applicant's representative from the U.S. Patent and Trademark Office (indicating receipt by the U.S. Patent and Trademark Office) is also attached. The actual received postcard may be provided upon request.

The Notice of Abandonment was issued on August 17, 2007, for failure to timely reply to the Office Action of January 31, 2007.

PETITION

In light of the foregoing, Petitioner hereby requests that the May 31, 2007 response be treated as timely filed and that the holding of abandonment be withdrawn. To the extent that the requirements of 37 CFR §1.8(b) may not have been satisfied by previous submissions, Petitioner hereby:

1. Supplies an additional copy of the previously mailed response and the certificate.

Serial No. **10699347** to Li
Art Unit: 1725
Page 3

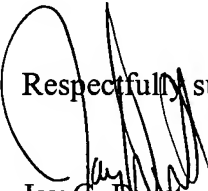
2. Includes a statement by Cheryl Yeko attesting on personal knowledge to the previous timely mailing of the response.

3. Includes a copy of the postcard submitted with the May 31, 2007 Reply and returned by the U.S. Patent and Trademark Office.

In light of the foregoing, grant of this Petition, withdrawal of the holding of abandonment, entry of the Reply, and forwarding of the Reply to the Examiner for consideration are believed to be in order and are respectfully requested.

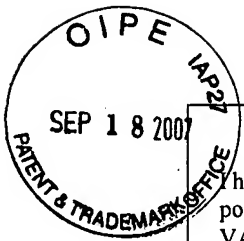
No fees are believed to be payable with this communication. Nevertheless, should the Examiner consider any other fees to be payment in conjunction with this or any future communications, the Director is authorized to direct payment of such fees to Deposit Account No. 50-1170.

Respectfully submitted,


Jay G. Durst
Registration No. 41,723


Dated: September 13, 2007

Boyle Fredrickson, S.C.
840 N. Plankinton Ave.
Milwaukee, WI 53203
Telephone: (414) 225-9755
Facsimile: (414) 225-9753



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Kandi L. Lortie

Date: September 13, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: ~~10/669,347~~ **10699347**

Inventor: Xiaochun Li

Filing Date: October 31, 2003

Examiner: Geoffrey S. Evans

Title: Food Processing Apparatus And Method

Confirmation No.: 2522

Attorney Docket: 539.005

DECLARATION OF CHERYL D. YEKO

Commissioner for Patents
P.O. Box 1451
Alexandria, VA 22313-1451

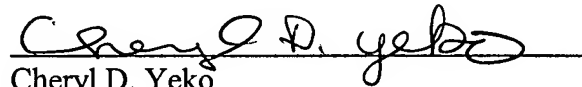
I, Cheryl D. Yeko, attest to the following:

- 1) On May 31, 2007, I assisted attorney Jay Durst in preparing an Amendment and Response to Office Action for filing on May 31, 2007.
- 2) I deposited the as-filed amendment on May 31, 2007, at the Post Office receptacle at 250 E. Wisconsin Ave., Milwaukee, WI, 53202. I signed the Certificate of Express Mailing bearing Express Mail Label No. EV034624005 US at the top of the Amendment on May 31, 2007, prior to placing the amendment in the Post Office receptacle at 250 E. Wisconsin Ave., Milwaukee, WI, 53202.

XIAOCHUN LI – Response to Notice of Abandonment
Serial No.: ~~10/669,347~~ **10699347**
Atty. Docket No.: 539.005
Page 2 of 2

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code; and that willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cheryl D. Yeko", is written over a horizontal line.

Cheryl D. Yeko
Assistant to Jay G. Durst
Boyle Fredrickson, SC

JGD/kll

Customer Number: **23598**

Dated: September 13, 2007

Boyle Fredrickson, S.C.
840 N. Plankinton Ave.
Milwaukee, WI 53203
Telephone: (414) 225-9755
Facsimile: (414) 225-9753

The U.S. Patent and Trademark Office stamp placed hereon indicates receipt of:

Serial No.: 10/699,347

Filed: 10/31/2003

Title: *Food Processing Apparatus & Method*

Inventor: Xiaochun Li

Included are:

Fee Transmittal
Transmittal Form

Amendment – 11 pages

Certificate of Express Mailing dated May 31, 2007

Return Postcard

Attorney: JGD

Docket No: 539.005



FEE TRANSMITTAL **for FY 2007**

Patent fees are subject to annual revision.

Complete if Known

Application Number 10/699,347
 Filing Date 10/31/2003
 First Named Inventor Xiaochun Li
 Examiner Name
 Group Art Unit
 Attorney Docket No. 539.005

TOTAL AMOUNT OF PAYMENT \$ 135.00

METHOD OF PAYMENT (check all that apply)
☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None
☒ Deposit AccountDeposit
Account
Number

50-1170

Deposit
Account
Name

Boyle, Fredrickson, Newholm, Stein & Gratz S.C.

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee

to the above-identified deposit account.

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
101	770	201	385	Utility filing fee	
106	340	206	170	Design filing fee	
107	530	207	265	Plant filing fee	
108	770	208	385	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below	Fee Paid
Independent	Claims	-20**=	3 x		
		-3**=	0 x		
Multiple Dependent					

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
103	18	203	9	Claims in excess of 20
102	86	202	43	Independent claims in excess of 3
104	290	204	145	Multiple dependent claim, if not paid
109	86	209	43	**Reissue Independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$75.00)

** or number previously paid, if greater. For Reissues, see above

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee	Fee	Fee	Fee		
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	60
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) \$

SUBMITTED BY

Name (Print/Type)

Jay G. Durst

Registration No.
(Attorney/Agent)

41,723

Telephone

(414) 225-6300

Signature

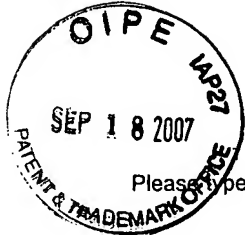
Date

May 31, 2007

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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☒ X

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paper Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/669,347-10699347	
	Filing Date	October 31, 2003	
	First Named Inventor	Xiaochun Li	
	Group Art Unit	1725	
	Examiner Name	Geoffrey S. Evans	
Total Number of Pages in This Submission		Attorney Docket Number	17319

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Jay G. Durst Boyle Fredrickson Newholm Stein & Gratz, S.C. 250 East Wisconsin Avenue, Suite 1030 Milwaukee, WI 53202
Signature	
Date	5/31/07

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being filed electronically at the USPTO on the date below:

Type or printed name	Cheryl Yeko		
Signature		Date	May 31, 2007

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



CERTIFICATE OF EXPRESS MAILING UNDER 37 CFR 1.10

Express Mail Label No: EV034624005 US

Date of Deposit: May 31, 2007

I hereby certify that this paper or fee is being deposited with the United States Postal Service in "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Cheryl D. Yeko
Cheryl D. Yeko

5-31-07
Date

Attorney Docket No. 539.005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: ~~10/669,347~~ 10699347

Inventor: Xiaochun Li

Filing Date: October 31, 2003

Examiner: Geoffrey S. Evans

Title: Food Processing Apparatus And Method

Confirmation No.: 2522

AMENDMENT AND REPLY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following is in response to the Office Action dated January 31, 2007. Along with this response, Applicant submits complete copies of the foreign references disclosed to the USPTO on October 24, 2005 in Form PTO/SB/08A & B, concluding that IDS submission. Please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing, which begins on page 2 of this paper.

Remarks begin on page 6 of this paper.

Amendments to the Claims

The following listing of claims will replace all prior versions and listing of claims in the application.

1. (Currently Amended) A method of processing a food product, the method comprising the steps of:
providing a source of pulsed ultraviolet (UV) radiation within a wavelength range equal to about 150 nm to about 280 nm; and
directing the UV radiation at the food product so as to photo-ablate without substantially heating the food product.
2. (Previously Presented) The method of claim 1, further comprising selecting a combination of parameters associated with the radiation.
3. (Previously Presented) The method of claim 2, wherein the parameters include at least one of a group including radiation focus spot size, radiation pulse repetition rate and source power.
4. (Previously Presented) The method of claim 3, wherein said selecting step includes increasing the pulse rate so as to increase processing efficiency.
5. (Previously Presented) The method of claim 2, further comprising adjusting the parameters to alter a performance characteristic of the method.

6. (Previously Presented) The method of claim 5, wherein the performance characteristic is processing speed.

7. (Cancelled)

8. (Previously Presented) The method of claim 6, wherein the UV radiation has a wavelength equal to about 266 nm.

9. (Currently Amended) An apparatus for processing a food product, the apparatus comprising:

a laser emitting radiation having a wavelength in the ultraviolet range, within a wavelength range equal to about 150 nm to about 280 nm; and

wherein a combination of parameters associated with the radiation is selected so that said laser photo-ablates without substantially heating the food product.

10. (Previously Presented) The apparatus of claim 9, wherein the parameters include at least one of a group including radiation focus spot size, radiation pulse repetition rate and source power.

11. (Previously Presented) The apparatus of claim 10, wherein the combination is based on a characteristic of the food product.

12. (Previously Presented) The apparatus of claim 10, wherein the combination is based

on a profile defined by ablation depth versus laser intensity.

13. (Previously Presented) The apparatus of claim 10, wherein the combination is adjusted according to a performance characteristic.

14. (Previously Presented) The apparatus of claim 13, wherein the performance characteristic is cutting depth.

15. (Cancelled)

16. (Currently Amended) The apparatus of claim 1, wherein the UV radiation has a wavelength equal to about 266 nm.

17. (Currently Amended) An apparatus for processing a food product, the apparatus comprising:

a laser emitting radiation having a wavelength in an ultraviolet range equal to about 150 nm to about 280 nm, wherein the radiation is directed towards the food product so as to photo-ablate the food product without substantially heating the food product.

18. (Previously Presented) The apparatus of claim 17, wherein the radiation is defined by a combination of parameters.

19. (Previously Presented) The apparatus of claim 18, wherein the combination includes focus spot size, radiation pulse repetition rate, and laser power.

20. (Previously Presented) The apparatus of claim 17, wherein the combination corresponds to at least one of a group including a processing performance characteristic and a characteristic of the food product.

21. (Previously Presented) The apparatus of claim 17, wherein the wavelength is about 200 nm.

22. (Currently Amended) A method of processing a food product, the method comprising the steps of:

providing a laser that generates ultraviolet (UV) radiation, wherein the UV radiation has a wavelength in a range equal to about 150 nm to about 280 nm;

selecting operation parameters associated with the laser, wherein the parameters include radiation focus spot size, radiation pulse repetition rate and source power; and

directing the UV radiation towards the food product at a repetition rate equal to at least about 20 Hz so as to photo-ablate the food product.

23. (New) The method of claim 1, wherein the source of pulsed UV radiation is operated at a pulse duration of about 10 nanoseconds at a repetition rate of at least about 20 Hz.

24. (New) The method of claim 23, wherein the source of pulsed UV radiation is operated at a pulse duration of about 10-nanoseconds at a repetition rate of at least about 1 kHz.

25. (New) The apparatus of claim 9, wherein an average power of radiation is in a range

XIAOCHUN LI – Response to 01/31/2007 Office Action

Serial No.: ~~10/669,347~~ **10699347**

Atty. Docket No.: 539.005

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equal to about 3.5W to about 40W while photo-ablating the food product.

26. (New) The apparatus of claim 17, wherein the radiation has a wavelength equal to about 266 nm and an average power during operation equal to at least about 3.5W.

27. (New) The method of claim 22, wherein the laser is operated at a pulse repetition rate of at least about 1 MHz and the food processing does not substantially heat the food product.

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Serial No.: ~~10/669,347~~ 10699347
Atty. Docket No.: 539.005
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REMARKS

Entry of the above amendments is respectfully requested. Claims 1, 9, 16, 17, and 22 have been amended. Claims 7 and 15 have been canceled. New claims 23 - 27 are added. Accordingly, claims 1 – 6, 8 – 14, and 16 – 27 are pending in this case. The amendments and new claims find support at, e.g., pages 10 and 12, and elsewhere in the application as filed, whereby no new matter is presented in such new claims. Please note the amendments and the new claims merely further clarify the scope of the invention such that no further search is required.

Summary of Office Action

In the Office Action mailed January 31, 2007, the Examiner rejected claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Yamazaki et al. (JP Pat. No. 2001-178,434). The Examiner rejected claims 1-3, and 9-14 under 35 U.S.C § 102(e) as being anticipated by O'Neill (US Pat. No. 6,394,889). The Examiner also rejected claims 1-3, 7, and 9-22 under 35 U.S.C. § 102(b) as being anticipated by L'Esperance, Jr. (US Pat. No. 5,312,320). The Examiner rejected claim 22 under 35 U.S.C. § 102(e) as anticipated by Kliewer et al. (US Pat. No. 6,572,606). The Examiner rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over L'Esperance, Jr. in view of Morris et al. (US Pat. No. 6,472,295). The Examiner further rejected claims 5, 6, and 8 under 35 U.S.C § 103(a) as being unpatentable over L'Esperance, Jr. in view of Oikawa et al. (JP Pat. No. 10-249,571).

Applicant respectfully disagrees with the Examiner as to the art and the various interpretation(s) thereof. At least for the reasons set forth below, Applicant believes that the present claims are patentably distinct over the art of record.

Prior Art Rejections

Turning to the rejection of independent claim 1 under 35 U.S.C. § 102(a) by Yamazaki et al., 35 U.S.C. § 102(b) by L'Esperance, Jr., and under 35 U.S.C. § 102(e) by O'Neill, this claim has been amended to include recitations of emitting radiation in a range equal to about 150 nm to about 280 nm, and that the food product is subjected to photo-ablation without substantially heating the food product. In other words, the subject matter of claim 1 is directed to *non-thermal* or *cold ablation* of a food product.

None of the references of record identically disclose, teach, or suggest all the limitations of amended Claim 1. Specifically, regarding the Yamazaki et al., L'Esperance, Jr., and O'Neill references, these references disclose systems for performing entirely different procedures. Such references are directed toward potato skin removal using hot ablation procedures, ophthalmological surgeries, and animal hide removal using hot ablation procedures, respectively. Correspondingly, none of them disclose, teach, or suggest the recited wavelength range or photo-ablating a food product without substantially heating it. Stated another way, none of the references of record teach, suggest, or otherwise disclose *non-thermal* or *cold ablation of a food product*.

Turning to the rejection of independent claims 9, 17, and 22 under 35 U.S.C. § 102(b) made in light of L'Esperance, Jr., by analogy, the amendments herein also obviate these rejections. Amended independent claims 9 and 17 include similar recitations to those of claim 1 discussed above, whereby each of claims 1, 9, and 17 now recites radiation in a wavelength range equal to about 150 nm to about 280 nm, and photo-ablating a food product without substantially heating the food product. Claim 22 now also recites radiation in a wavelength range equal to about 150 nm to about 280 nm, and further recites a repetition rate equal to at least about 20 Hz. Similar to independent claims 1, 9, and 17, the operating parameters of claim 22, such as the recited wavelength range and repetition rate, effectuate *non-thermal* or *cold ablation of a food product*. The

L'Esperance, Jr. reference, directed to ophthalmological surgeries does not disclose, teach, or suggest such subject matter, nor does any other reference of record.

The amendment to independent claim 22 also obviates the rejection under 35 U.S.C. § 102(b) made in light of Kliewer et al., for the same reasons. Kliewer et al. is another reference relating to ophthalmological surgeries and does not disclose, teach, or suggest the subject matter of amended claim 22. It does not identically disclose, nor does it teach or suggest, *non-thermal* or *cold ablation of a food product* in any regard.

The Examiner then rejected claims 4, 5, 6, and 8 under 35 U.S.C. § 103(a) using L'Esperance, Jr. as a primary reference and citing it in view of Morris et al. (rejection of claim 4) or Oikawa et al (rejection of claims 5, 6, and 8). These rejections rely, at least in part, upon the Examiner's misinterpretation and application of L'Esperance, Jr. Simply stated, these references are from a non-analogous art; specifically, one looking to solve food processing related problems would not reasonably look to techniques relating to ophthalmological surgeries for solutions thereto.

For example, the conditions and technical problems one faces in an ophthalmological surgery environment and those one faces in a food processing environment are completely dissimilar. Any similar apparatus used in the two distinct disciplines must be modified, adapted, and/or reconfigured to suitably perform the particular desired end use operation. In seeking guidance on how to adapt and configure a device for non-thermal or cold photo-ablation type cutting and/or processing food products (or how to solve food processing related issues), one does *not* reasonably look to ophthalmological surgery equipment which is adapted and configured to superficially revise the contours of the eye, such as those disclosed in of L'Esperance, Jr. and Kliewer et al.

Fundamentally, if for no other reason, during ophthalmological surgeries, the subject is a living being, whereby the subject's welfare is paramount and therefore supersedes all other considerations if there are any conflicts therewith. In stark contrast, in food processing, costs, time

efficiency, and/or other economic considerations are typically the principal considerations. In light of these and other diametrically opposed end-of-procedure goals in comparing ophthalmological surgeries to food processing procedures, Applicant reiterates that one looking to solve food processing related problems does not look to fields of ophthalmological surgeries for answers. Regardless, the amendment of independent claims 1, 9, 17, and 22 resolve any such issues.

New Claims

Although Applicant submits that the rejections to claims 1-22 have been overcome or otherwise obviated by canceling claims 7 and 15, amending claims 1, 9, 16, 17, and 22, and by the above arguments, Applicant herein submits new claims 23-27 to even further clarify the subject matter of the invention. New claims 23-27 are directed toward, e.g., power used in non-thermal or cold photo-ablating a food product, pulse durations, and repetition rates. Notably, using a pulsed laser operated at a frequency (repetition rate) as defined in the claims facilitates cold ablation in the present invention (as opposed to, for example, the Yamazaki laser which generates significant heat during operation given that it is effectively non-pulsed, which of course is of no consequence in the applications contemplated by Yamazaki). In sum, these amendments are presented in a full and good faith effort to move this case to allowance.

In light of at least the forgoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests issuance of a notice of allowance of claims 1 – 6, 8 – 14, and 16 – 27.

XIAOCHUN LI – Response to 01/31/2007 Office Action
Serial No.: ~~10/669,347~~ **10699347**
Atty. Docket No.: 539.005
Page 11 of 11

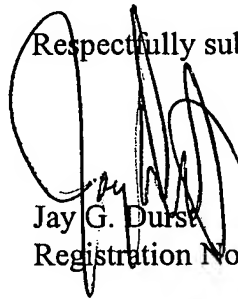
Conclusion

In view of the above remarks, the objections and rejections of the present Action are believed to be overcome. As a result, claims 1 – 6, 8 – 14, and 16 – 26 are believed to be in compliance with 35 U.S.C. §§ 102, 103, and 112 and as such are believed to be in condition for allowance.

Applicant respectfully requests a one-month extension of time to file this Reply (\$60) and three additional claims in excess of twenty (\$75). Please charge Deposit Account No. 50-1170 the \$135.00 fee. No other fees are believed payable with this communication. Nevertheless, should the Examiner consider any fees to be payable in conjunction with this or any future communication, authorization is given to charge payment of such fees or credit any overpayment to Deposit Account No. 50-1170.

Should the Examiner have any questions or wish to discuss this matter further, the Examiner is invited to contact the undersigned at the below number.

Respectfully submitted,



Jay G. Durst
Registration No. 41,723

JGD/cdy

Customer Number: 23598

Dated: 5/31/07

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